

**Baker & Hostetler LLP**

45 Rockefeller Plaza  
New York, New York 10111  
Telephone: 212.589.4200  
Facsimile: 212.589.4201  
David J. Sheehan  
Email: dsheehan@bakerlaw.com  
Nicholas J. Cremona  
Email: ncremona@bakerlaw.com  
Dean D. Hunt  
Email: dhunt@bakerlaw.com

*Attorneys for Irving H. Picard, Trustee for the  
Substantively Consolidated SIPA Liquidation of  
Bernard L. Madoff Investment Securities LLC  
and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Substantively  
Consolidated SIPA Liquidation of Bernard L. Madoff  
Investment Securities LLC and Bernard L. Madoff,

Plaintiff,

v.

ESTATE OF RAANAN SMELIN; BETTY SMELIN,  
individually and in her capacity as Executrix of the  
Estate of Raanan Smelin; ANICE MILLS; DAVID  
SMELIN; and ADAM SMELIN,

Defendants.

No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-04622 (SMB)

**STIPULATION AND ORDER FOR VOLUNTARY  
DISMISSAL OF ADVERSARY PROCEEDING WITHOUT PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the substantively consolidated estate of Bernard L. Madoff individually, by and through his counsel, Baker & Hostetler LLP, and Defendants Estate of Raanan Smelin, Betty Smelin, individually and in her capacity as Executrix of the Estate of Ranaan Smelin, Anice Mills, David Smelin and Adam Smelin (“Defendants”) by and through their counsel, Steven D. Feinstein of Feinstein & Naishtut, LLP (collectively, the “Parties”), hereby stipulate and agree to the following:

1. On December 1, 2010, the Trustee filed and served a Complaint against NTC & Co, LLP as former custodian of an Individual Retirement Account for the benefit of Raanan Smelin and Raanan Smelin.
2. On April 25, 2011, NTC & Co. LLP was voluntarily dismissed without prejudice.
3. Defendant Raanan Smelin died on February 7, 2010.
4. On July 29, 2011 an Amended Complaint was filed against Defendants.
5. On January 17, 2013, Defendants served an answer on the Trustee.
6. On October 22, 2015, the Parties entered into a settlement agreement pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 [Dkt. No. 3181].
7. In accordance with Federal Rule of Bankruptcy Procedure 7041(a)(1)(ii), and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to a dismissal without prejudice of the Trustee’s claims against Defendants in the above-captioned adversary proceeding and dismissing the adversary proceeding without prejudice and without costs to either Party, subject to the right of the Trustee to move to re-open this adversary proceeding in the event of an uncured default relating to the Secured Settlement Amount and Security

Agreement provided for in the Settlement Agreement.

8. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

9. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic, or electronic copy of this Stipulation shall be deemed an original.

New York, New York  
December 8, 2015

By: /s/ Nicholas J. Cremona  
**BAKER & HOSTETLER LLP**  
45 Rockefeller Plaza  
New York, New York 10111  
Telephone: 212.589.4200  
Facsimile: 212.589.4201  
David J. Sheehan  
Email: dsheehan@bakerlaw.com  
Nicholas J. Cremona  
Email: ncremona@bakerlaw.com  
Dean D. Hunt  
Email: dhunt@bakerlaw.com

*Attorneys for Irving H. Picard, Trustee for the  
Substantively Consolidated SIPA Liquidation  
of Bernard L. Madoff Investment Securities  
LLC and the Estate of Bernard L. Madoff*

By: /s/ Steven D. Feinstein  
**FEINSTEIN & NAISHTUT, LLP**  
Steven D. Feinstein  
211 South Ridge Street  
Rye Brook, New York 10573  
Telephone: 914.939.0002 (Ext. 111)  
Facsimile: 914.939.4253  
Email: sfeinstein@gfnlaw.com

*Attorney for Defendants*

SO ORDERED

Dated: December 8<sup>th</sup>, 2015  
New York, New York

/s/ STUART M. BERNSTEIN  
HON. STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE